

108TH CONGRESS
1ST SESSION

S. 681

To provide for the enhanced protection of electricity consumers under the
Federal Power Act.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2003

Ms. CANTWELL (for herself and Mrs. MURRAY) introduced the following bill;
which was read twice and referred to the Committee on Energy and Nat-
ural Resources

A BILL

To provide for the enhanced protection of electricity
consumers under the Federal Power Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “The Electricity Market
5 Manipulation Prevention Act”.

6 **SEC. 2. MARKET-BASED RATES.**

7 Section 205 of the Federal Power Act (16 U.S.C.
8 824d) is amended by adding at the end the following:

9 “(g) MARKET-BASED RATES.—

1 “(1) IN GENERAL.—For each public utility
 2 granted the authority by the Commission to sell
 3 wholesale electric energy at market-based rates, the
 4 Commission shall review, at least annually, the char-
 5 acteristics of each market in which the public utility
 6 is authorized to sell wholesale electric energy at mar-
 7 ket-based rates to determine whether sales by the
 8 public utility in that market are subject to effective
 9 competition.

10 “(2) NO EFFECTIVE COMPETITION.—On deter-
 11 mining that sales in a market by a public utility are
 12 not subject to effective competition, the Commission
 13 shall issue an order immediately revoking the au-
 14 thority of the public utility to sell wholesale electric
 15 energy at market-based rates in that market.

16 “(3) CONDITION.—In each authorization to a
 17 public utility to sell wholesale electric energy at mar-
 18 ket-based rates, the Commission shall include a con-
 19 dition requiring the public utility to notify the Com-
 20 mission promptly of any change in any characteristic
 21 of the market that the Commission relied on in
 22 granting the authority.”.

23 **SEC. 3. REMEDIES.**

24 Section 206 of the Federal Power Act (16 U.S.C.
 25 824e) is amended by adding at the end the following:

1 “(d) MARKET-BASED RATES.—The Commission
2 shall issue an order immediately revoking or modifying the
3 authority of a public utility to sell electric energy at mar-
4 ket-based rates if, after a hearing had upon its own motion
5 or upon complaint, the Commission finds that—

6 “(1) a rate charged by the public utility author-
7 ized to sell electric energy at market-based rates in
8 a wholesale electric energy market is unjust, unrea-
9 sonable, unduly discriminatory or preferential;

10 “(2) the public utility has intentionally engaged
11 in an activity in a wholesale electric energy market
12 that violates any rule, tariff, or order of the Com-
13 mission; or

14 “(3) the public utility has engaged in or at-
15 tempted to engage in fraudulent, manipulative, or
16 deceptive activity in a wholesale electric energy mar-
17 ket.

18 “(e) FRAUDULENT, MANIPULATIVE, OR DECEPTIVE
19 ACTIVITIES.—Notwithstanding subsection (a), if the Com-
20 mission finds that a public utility has engaged in or at-
21 tempted to engage in a fraudulent, manipulative, or decep-
22 tive activity in a wholesale electric energy market, the
23 Commission shall—

1 “(1) establish the just and reasonable rate for
2 all prospective sales subject to the jurisdiction of the
3 Commission made by the public utility; and

4 “(2) require the public utility to refund any rev-
5 enues collected in excess of the average wholesale
6 power cost of service within the regional power mar-
7 ket for the period in which the public utility engaged
8 in the activity.

9 “(f) PUBLIC INTEREST STANDARD.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), the Commission shall not apply the public
12 interest standard in a proceeding under this section
13 for review of a transaction executed at market-based
14 rates.

15 “(2) NO EFFECTIVE COMPETITION.—If the
16 public interest standard is explicitly contained in the
17 contract at issue in a proceeding described in para-
18 graph (1), the Commission shall apply the public in-
19 terest standard in the proceeding unless the Com-
20 mission finds that the contract was not subject to ef-
21 fective competition.”.

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